



TESTIMONY
OF THE
CONNECTICUT CONFERENCE OF MUNICIPALITIES
TO THE
LABOR AND PUBLIC EMPLOYEES COMMITTEE

February 24, 2009

CCM is Connecticut's statewide association of towns and cities and the voice of local governments - your partners in governing Connecticut. Our members represent over 93% of Connecticut's population. We appreciate this opportunity to testify before this joint committee on issues of concern to towns and cities.

Raised Bill 804 "An Act Concerning Municipal Binding Arbitration"

Raised Bill 804 would allow unions the right to reject arbitration awards and also stipulate that such organizations split the costs of the binding arbitration that follows with the municipality.

Raised Bill 804 is the opposite of binding arbitration reform --- and the opposite of the much-needed relief local governments seek in order to sustain critical programs and services throughout this economic downturn.

Connecticut towns and cities are going through very challenging fiscal times. As the need for services increases, state aid to towns and cities has not kept pace. This has resulted in increased property taxes and cutbacks in local services.

There is a mechanism that enables the State to provide much-needed relief to municipalities at no cost: reform of the binding arbitration laws for municipal employees. Reform can occur without compromising the integrity of the systems. It can be done in a way that is fair to both employees and employers.

Background

In 1975, the General Assembly mandated compulsory binding arbitration in collective bargaining impasses between municipalities and employee unions (Municipal Employee Relations Act – MERA, CGS Sections 7-467 through 7-478). In 1979, the mandate was extended by enacting a separate arbitration law for school board employees (Teacher Negotiation Act – TNA, CGS Section 10-153).

These laws were designed to provide finality to collective bargaining impasses while avoiding public employee strikes and disruption of services.

Under these two laws, decisions of an arbitration panel are binding upon the parties involved. Towns and cities must appropriate funds necessary to comply with a panel's decision.

In 1992, the General Assembly made several changes to the two laws including, (1) providing local legislative bodies the one-time authority to reject, by two-thirds vote, teacher and municipal employee arbitration awards, and (2) allowing consideration of other demands on the financial capability of the municipal employer when determining ability to pay awards (in addition to considering the public interest and simple financial capability of the public). These reforms provided some relief, but more needs to be done.

Compulsory binding arbitration is an impasse resolution procedure designed to bring labor negotiations or disputes to a conclusion without public employee strikes and service disruptions. And, in these regards, the laws have been successful. *However, the cost of this labor peace to residential and business taxpayers is seen by many as excessive.* Municipalities are at times pressed into agreeing to higher contract agreements during regular negotiations out of fear of being burdened with even larger and more costly awards through the binding arbitration mandate.

The current process does not pay adequate attention to the fiscal health of municipalities, that is, whether it's residents and businesses can afford these arbitration awards. In addition, the State has mandated that towns and cities follow one process, while the State itself follows another. After the State rejects an award, the parties go back anew to the bargaining table. CCM seeks changes to add fairness, transparency and consistency to the local and state binding arbitration process.

CCM Proposal - Parity

CCM recommends a much-needed "fresh start" approach to the municipal binding arbitration process, and proposes the following reform:

Modify the binding arbitration law under the Municipal Employee Relations Act (MERA) and the Teacher Negotiation Act (TNA) by providing a measure of parity with the state system:

- (a) Maintain the power of local legislative bodies to reject arbitrated awards by a two-thirds vote, but provide that the arbitration process would begin anew in the event of such a rejection – instead of going to a second, final and binding arbitration panel, and
- (b) Allow local legislative bodies to reject stipulated board of education/teacher agreements. Stipulated agreements are voluntary agreements between boards of education and teachers within the arbitration process that are incorporated into arbitration awards. There are thus no "last best offers" from each side on the issues that were previously at impasse, thereby denying arbitrators a choice on such issues. The present law provides a loophole that allows such stipulated awards to escape local legislative body review.

Why This Proposal Is Appropriate and Fair

- It creates a binding arbitration system that is consistent at the state and local levels.
- A two-thirds majority vote is difficult to achieve in any legislative body. It sets a very high bar to overcome. Of course, collective bargaining votes are on the record, oftentimes in rooms crowded with interested parties. This scrutiny ensures that serious consideration is given to both sides for all awards. It also ensures a proper system of checks and balances – a standard to which the state legislature has adhered.
- Provides that municipal elected officials, representing the residents of communities, be accorded a reasonable opportunity to ensure that the taxpayers' interest is given adequate consideration.

- It makes the decision-making process transparent and open to public input and scrutiny. In addition, the proposal ensures that both parties get a fresh start by requiring that negotiations begin anew. It encourages both parties to work together until there is a resolution that is mutually acceptable to the parties.

Remember, an arbitrator's decision now constitutes a state mandate on the community, and can force substantial changes in municipal taxation, municipal service levels, policy priorities, and the ability to manage the work force. Arbitrators are unelected and usually not residents of the communities that their awards impact.

The reforms proposed by CCM would help restore balance to the system. They would maintain the essential components of the present compulsory binding arbitration mandate, but empower the local elected representatives of the residents and businesses that pay the bills to start the process anew if they determine the municipality can't afford an arbitrator's award. In tight economic times such as these, it is more important than ever to protect the public interest.

In addition to parity among the state and local processes – CCM urges you to consider the following proposals as additional means of assisting local governments during this difficult fiscal climate:

- ☐ *Streamline the State Arbitrator process by amending state statutes to allow a single, neutral arbiter to oversee proceedings.* Modify the State appointment process to ensure parties are assigned a single arbiter – at random – from a pool of up to five neutral, permanent members and that a predetermined fee schedule be codified – to be paid by both parties.
- ☐ *Establish timetables and firm deadlines for municipal negotiations and binding arbitration* similar to those used under the TNA to (1) limit the size of liabilities for retroactive pay and benefits, and (2) protect against last-minute modifications of “best final” offers. This a prudent and reasonable reform to the current process.
- ☐ Amend local binding arbitration statutes to help *curtail local expenditures* by:
 - (1) Ensuring certain arbitration criteria be reviewed which takes into account current economic trends and projected data that impedes towns' ability to pay going forward,
 - (2) Inserting a definition of “public interest” that includes an irrebuttable presumption that the public is not willing to increase personnel costs (including salaries and fringe benefits) for Town or Board of Education employees at rates in excess of general fund expenditures for local government services over the average of the last three fiscal years.
 - (3) Eliminating item-by-item decisions on economic and fringe benefit issues. Instead, ensure that these two separate issues are addressed under their respective categories as a whole.
 - (4) Ensuring the negotiation of fringe benefits involving Town and BOE bargaining units mirror the State process and be conducted on a coalition basis.

CCM urges you to (1) amend Raised Bill 804 to include our suggested reform proposals, **or (2) take no action on Raised Bill 804.**



If you have any questions, please call Bob Labanara or Ron Thomas of CCM, at (203) 498-3000

